

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARK NUNEZ, et al.,

Plaintiffs,

**DECLARATION OF**  
**CHRISTOPHER MILLER**

-against-

CITY OF NEW YORK, et al.,

11 Civ. 5845 (LTS)(JCF)

Defendants.

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UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

-against-

CITY OF NEW YORK and NEW YORK CITY  
DEPARTMENT OF CORRECTION,

Defendants.

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**CHRISTOPHER MILLER**, declares pursuant to 28 U.S.C. Code §1746 under penalty of perjury that the following is true and correct:

1. I am the Deputy Commissioner of Classification, Custody Management and Facility Operations with the New York City Department of Correction (“DOC”), a position that I have held since July 25, 2022. Among my responsibilities is oversight of the intake processes at DOC.

2. I submit this declaration in response to the Court’s order that “Defendants . . . file [a] status report[] on their efforts to implement reliable Intake tracking systems for new admissions and inter/intra facility transfers . . . by March 20, 2023.” This declaration follows up on my declaration of February 8, 2023, which reported on our progress toward that goal.

A. New Admissions

3. Procedures for new admissions have not changed significantly since my previous declaration. Men are admitted at the Eric M. Taylor Center (“EMTC”) and women at the Rose M. Singer Center (“RMSC”). The process is described in the Court’s March 13, 2023 opinion. DOC’s policy requires us to house people within 24 hours of their coming into our custody at the courthouse.<sup>1</sup> EMTC and RMSC employ the same updated New Admission Dashboard (“the Dashboard”) to track the various stages of the intake process and determine whether the 24-hour time requirement has been met.

4. Our numbers for the period February 1, 2023 to March 10, 2023, indicate that DOC is meeting its 24-hour obligation. According to the Dashboard, 1,798 new admissions were housed in EMTC during that 38-day period. Of those only 12 (0.67 percent) were housed beyond 24 hours, and the average time was 14.5 hours.<sup>2</sup> As before, most of the credit for the high rate of compliance goes to the Warden of the facility and her staff.

5. As I stated in my previous declaration, since January 2023, the Nunez Compliance Unit (“NCU”) has audited the intake process to ensure that data is being entered accurately in the

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<sup>1</sup> I understand that the Monitor intends to submit data using both custody time and arrival time as the starting point for analysis.

<sup>2</sup> These numbers exclude the time when the “clock” was stopped. As I noted in my previous affidavit, DOC believes that it is proper to stop the 24-hour clock when it is impossible to continue to process an individual for a reason outside our control. In the period February 1, 2023, there were only 88 such stoppages: 46 for a court appearance, 10 for hospital, 10 for URGI care, 22 for refusals, and 0 for bail having been paid before the intake process was completed.

Dashboard and that the 24-hour requirement is being met. Since my last declaration, NCU has completed three audits. The audits compare Dashboard entries with times taken from EMTC's Genetec surveillance system. On January 31, 2023, NCU tracked eight new admissions entering EMTC. According to Genetec footage, the results were these: (i) all eight were housed within 24 hours; (ii) for all eight, the Dashboard arrival time matched the Genetec arrival time; and (iii) for four of the eight, the Dashboard housing time matched the Genetec housing time.<sup>3</sup> That is to say, for four of the eight individuals tracked, the Dashboard time differed from the Genetec time by more than 20 minutes. For three of those, the Dashboard time showed that the individual was housed before he was actually housed, and for one, the Dashboard time showed that he was housed after he was actually housed. One officer committed three of the four errors, and he has received counselling on the importance of data accuracy.

6. The second audit was conducted on February 13, 2023, and 12 individuals were tracked. According to Genetec footage, all 12 individuals were housed within 24 hours. For 11 individuals, the dashboard arrival times and Genetec arrival times matched. For all 12 individuals, the Dashboard housing time and the Genetec housing time matched. The one instance in which the Dashboard arrival time and the Genetec arrival time did not match was the product of human error: the Genetec arrival time was 22.16 p.m. and the Dashboard arrival time was 2:16 a.m. The officer who made the mistake has been counselled.<sup>4</sup>

7. The third audit took place February 24, 2023. Ten individuals were tracked, and, according to Genetec footage, all ten were housed in 24 hours. For all 10, the Dashboard arrival times matched the Genetec arrival times. For 9 of the 10, the Dashboard housing time matched the

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<sup>3</sup> NCU auditors consider it a match if the two times are within 20 minutes of each other.

<sup>4</sup> The error was not an attempt to make it seem that a person had been housed in 24 hours when he hadn't been. The Dashboard showed him housed in 12 hours and should have shown 14 hours, well within the 24-hour period.

Genetec housing time. The one discrepant individual showed a Dashboard arrival time of 14:44 and a Genetec arrival time of 16:54, which could also have been the product of a data entry error. Importantly, there was no indication that the dashboard was being “manipulated” to make non-compliant individuals appear to be compliant. According to the Genetec footage, the discrepant individual was housed in 17 hours and 23 minutes.

8. A fourth audit was conducted on March 12, 2023, and the results are being finalized. I will report them to the Court in my next declaration.

9. The audits provide strong evidence that the New Admission Dashboard is (or is fast becoming) a reliable system for tracking intake at EMTC. All told, 30 individuals were tracked in the three audits and in 54 of the 60 instances compared, the Dashboard times matched the Genetec times. Moreover, each audit showed improvement over the one before, and none indicates that data is being manipulated.

10. We have made two modest changes at EMTC to improve the intake process. First, a “drop down box” has been added to the Dashboard for an Assistant Deputy Warden (“ADW”) to approve any clock stoppage. (This is true at RMSC as well.) Second, an office has been provided in the intake area for the assigned Assistant Deputy Warden (“ADW”) to use. The office reflects the importance of an ADW being physically present to supervise the intake process.

11. The same intake process is in place in RMSC, where women are first admitted. New admissions at RMSC (four a day on average) are far less than at EMTC (50 a day on average). We have just begun to prepare reports for RMSC, but intake there appears to be running smoothly, as one would expect given the small number of admissions. Of the 26 women admitted between

March 1, 2023, and March 7, 2023, all were housed in 24 hours. The average time was 11.37 hours, and the maximum time was 18.18 hours, again excluding clock stoppages.<sup>5</sup>

B. Inter/Intra Facility Intake

12. DOC is also required to transfer individuals within 24 hours between facilities (e.g., RNDC to GRVC) and between housing units in a facility (e.g., 3 Main in RNDC to 6 UN in RNDC). In my previous declaration, I told the Court that we were “in the process of taking . . . steps” to better track individuals as they move through inter/intra facility intake to ensure that the 24-hour requirement is being met. We are using DOC’s Inmate Tracking System (“ITS”) to capture the time that it takes to effect a transfer. That computer system has the necessary fields and is easy to use. We are also using the bar code on the individual’s accompanying card to reduce the need for data entry. To date, 107 individuals have been newly trained on using the ITS system, and Captains have been assigned at each facility to oversee the intake process. The new process is fully operational at two facilities (RNDC and RMSC) and should be so at all facilities by the end of this month.

13. I have also established a team of three individuals who, beginning later this week, will monitor the inter/intra facility intake process. (The team will work from a room near my office.) The team will have access to Genetec, and its assignment will be to watch the intake units in the facilities and ensure that no one is languishing there.

14. My next report to the Court is due on April 17, 2023. Between now and then, NCU will conduct at least one audit to test the ITS tracking system. As the Court may recall, that unit


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<sup>5</sup> There were four clock stoppages: three for court and one for a refusal.

conducted five inter-facility audits between October 2022 and December 2022. Of the 38 individuals tracked, 35 were housed within 24 hours. Our goal is to do even better this next month.

15. DOC is committed to having reliable intake tracking systems and to meeting our 24-hour obligations. I will continue to closely monitor our efforts and report to the Court as required.

Dated: March 20, 2023  
East Elmhurst, New York

  
Christopher Miller